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HOUSE BILL 159

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

G. X. McSHERRY

FOR THE WATER, UTILITIES AND NATURAL RESOURCES COMMITTEE

AN ACT

RELATING TO TAXATION; PROVIDING A TAX CREDIT FOR AGRICULTURAL  
WATER CONSERVATION EXPENSES AGAINST PERSONAL AND CORPORATE  
INCOME TAX LIABILITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Income Tax Act is  
enacted to read:

" NEW MATERIAL INDIVIDUAL TAX CREDIT-- AGRICULTURAL  
WATER CONSERVATION EXPENSES. --

A. To encourage the conservation of water in  
agricultural activities, a taxpayer who files an individual  
New Mexico income tax return and who is not the dependent of  
another individual may claim a credit against his income tax  
liability equal to seventy-five percent of his incurred  
expenses, not to exceed a maximum credit of fifty thousand

Underscored material = new  
[bracketed material] = delete

1 dollars (\$50,000), for purchasing and installing equipment for  
2 an agricultural water conservation system in the year in which  
3 the expenses are incurred.

4 B. To qualify for the credit pursuant to this  
5 section:

6 (1) the agricultural water conservation  
7 system equipment must be primarily designed to substantially  
8 conserve water on land in this state that is owned by the  
9 taxpayer and used by the taxpayer or the taxpayer's tenant to:

10 (a) produce crops, fruits or other  
11 agricultural products;

12 (b) raise, harvest or grow trees; or

13 (c) sustain livestock;

14 (2) the expenses must be incurred after  
15 January 1, 1999 and must be consistent with an effective water  
16 conservation plan that the taxpayer has filed with the United  
17 States department of agriculture's natural resources  
18 conservation service; and

19 (3) the land on which the agricultural water  
20 conservation system equipment is located must be located in  
21 this state and be entirely in an area identified, in the  
22 taxable year or a preceding taxable year, as an area of  
23 extreme drought severity on the Palmer drought severity index  
24 published by the national oceanic and atmospheric  
25 administration.

. 119576. 2

Underscored material = new  
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1           C. Co-owners of the land on which the agricultural  
2 water conservation system equipment is installed, including  
3 partners in a partnership and shareholders of an S corporation  
4 as defined in Section 1361 of the Internal Revenue Code, each  
5 may claim only the pro rata share of the credit allowed under  
6 this section based on the ownership interest. The total of  
7 the credits allowed all the owners may not exceed the amount  
8 that would have been allowed a sole owner of the land.

9           D. A husband and wife who file separate returns  
10 for a taxable year in which they could have filed a joint  
11 return each may claim only one-half of the credit that would  
12 have been allowed on a joint return.

13           E. If the allowable tax credit in the year the  
14 credit is claimable exceeds the taxes otherwise due pursuant  
15 to the Income Tax Act on the taxpayer's income or if there are  
16 no income taxes due from the taxpayer, the taxpayer may carry  
17 forward the amount of the credit not used in that year to  
18 offset taxes pursuant to the Income Tax Act for not more than  
19 five consecutive taxable years' income tax liability. This  
20 credit may only be deducted from the taxpayer's income tax  
21 liability.

22           F. The credit may not be claimed if a deduction  
23 for the expenses is claimed pursuant to the Internal Revenue  
24 Code.

25           G. The department of agriculture shall promulgate

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1 rules to implement this section and establish guidelines to  
2 determine whether agricultural water conservation system  
3 equipment qualifies for the credit available pursuant to this  
4 section. "

5 Section 2. A new section of the Corporate Income and  
6 Franchise Tax Act is enacted to read:

7 "[NEW MATERIAL] CORPORATE TAX CREDIT--AGRICULTURAL WATER  
8 CONSERVATION EXPENSES. --

9 A. To encourage the conservation of water in  
10 agricultural activities, a taxpayer that files a New Mexico  
11 corporate income tax return may claim a credit against its  
12 corporate income tax liability equal to seventy-five percent  
13 of its incurred expenses, not to exceed a maximum credit of  
14 fifty thousand dollars (\$50,000), for purchasing and  
15 installing equipment for an agricultural water conservation  
16 system.

17 B. To qualify for the credit pursuant to this  
18 section:

19 (1) the agricultural water conservation  
20 system equipment must be primarily designed to substantially  
21 conserve water on land that is owned by the taxpayer and used  
22 by the taxpayer or the taxpayer's tenant to:

23 (a) produce crops, fruits or other  
24 agricultural products;

25 (b) raise, harvest or grow trees; or

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(c) sustain livestock;  
(2) the expenses must be incurred after January 1, 1999 and must be consistent with an effective water conservation plan that the taxpayer has filed with the United States department of agriculture's natural resources conservation service; and

(3) the land on which the agricultural water conservation system equipment is located must be located in this state and be entirely in an area that has been identified, in the taxable year or a preceding taxable year, as an area of extreme drought severity on the Palmer drought severity index published by the national oceanic and atmospheric administration.

C. Co-owners of the land on which the agricultural water conservation system equipment is installed, including corporate partners in a partnership, each may claim only the pro rata share of the credit allowed pursuant to this section based on the ownership interest. The total of the credits allowed all the owners may not exceed the amount that would have been allowed a sole owner of the land.

D. If the allowable tax credit in the year the credit is claimable exceeds the taxes otherwise due pursuant to the Corporate Income and Franchise Tax Act on the taxpayer's corporate income or if there are not taxes due pursuant to the Corporate Income and Franchise Tax Act, the

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1 taxpayer may carry forward the amount of the credit not used  
2 to offset taxes pursuant to the Corporate Income and Franchise  
3 Tax Act for not more than five consecutive taxable years'  
4 corporate income tax liability.

5 E. The credit may not be claimed if an allowance  
6 for state tax purposes is taken by the taxpayer for a  
7 deduction for the expenses allowed by the Internal Revenue  
8 Code.

9 F. The department of agriculture shall promulgate  
10 rules to implement this section and establish guidelines to  
11 determine whether agricultural water conservation system  
12 equipment qualifies for the credit available pursuant to this  
13 section. "

14 Section 3. APPLICABILITY. --The provisions of this act  
15 apply to taxable years beginning on and after January 1, 1999.